

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
BELEN SANTIAGO, :  
:  
Plaintiff, : 24-CV-409 (JMF)  
:  
-v- : ORDER OF DISMISSAL  
:  
COMMISSIONER OF SOCIAL SECURITY, :  
:  
Defendant. :  
:  
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JESSE M. FURMAN, United States District Judge:

On February 26, 2024, Defendant filed a motion to dismiss the Complaint pursuant to Rule 12(b) of the Federal Rules of Civil Procedure. *See* ECF No. 24. Plaintiff did not file any opposition to the motion, so the Court, on March 26, 2024, ordered her to show cause by April 9, 2024, why Defendant's motion should not be deemed unopposed. ECF No. 34. The Court warned Plaintiff that failure to show such good cause "may result in Defendant's motion being granted as unopposed or in dismissal of the case for abandonment or failure to prosecute pursuant to Rule 41 of the Federal Rules of Civil Procedure." *Id.* Plaintiff has not responded to the Court's Order to Show Cause, let alone filed any opposition.

Upon review of Defendant's motion papers, the motion to dismiss is GRANTED and the case is dismissed, both for failure to prosecute pursuant to Rule 41 and substantially for the reasons stated in Defendant's memorandum of law. ECF No. 24-1. Additionally, while leave to amend a complaint should be freely given "when justice so requires," Fed. R. Civ. P. 15(a)(2), it is "within the sound discretion of the district court to grant or deny leave to amend." *McCarthy v. Dun & Bradstreet Corp.*, 482 F.3d 184, 200 (2d Cir. 2007). Here, the Court declines to grant

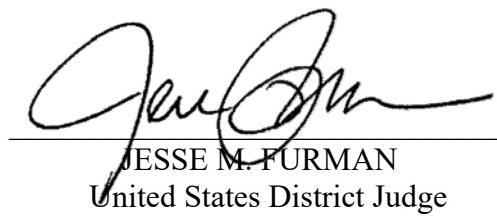
such leave *sua sponte* because the problems with Plaintiff's claim "is substantive . . . [and] better pleading will not cure it." *Cuoco v. Moritsugu*, 222 F.3d 99, 112 (2d Cir. 2000).

Accordingly, it is hereby ORDERED that the case is dismissed. The Clerk of Court is directed to close the case and to mail a copy of this Order to Plaintiff at both the address listed on the docket and the following address identified in ECF Nos. 1-6 and 1-8:

Belen Santiago  
P.O. Box 155  
Bronx, NY 10453

SO ORDERED.

Dated: April 10, 2024  
New York, New York



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JESSE M. FURMAN  
United States District Judge